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UNITED NATIONS CONFERENCE FOR THE ADOPTION OF A CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

COMMITTEE I

CORRIGENDUM TO THE SUMMARY RECORDS OF THE 1st to 33rd MEETINGS

Held at the Hofburg, Vienna,
from 28 November to 15 December 1988

This corrigendum contains delegation and Secretariat corrections to the summary records of the meetings of Committee I of the United Nations Conference for the Adoption of a Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (E/CONF.82/C.1/SR.1-33).

With the issuance of this corrigendum, the records of the meetings of Committee I may be considered final.

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E/CONF.82/C.1/SR.1

Paragraph 22

Line 2: for customary read traditional

Paragraph 34

Line 1: for Mr. ERSAVCI read Mr. ERNER

Paragraph 49

The paragraph should read

49. Ms. HUSSEIN (Malaysia) expressed a reservation concerning the use of the word "vicinity", and also said that the proposal might be more effective if it referred to the people who were victims of the offence instead of the places where the offence was committed.

E/CONF.82/C.1/SR.2

Cover page

The name of the Chairman should read Mr. POLIMENI

Paragraph 86

Line 1: after preferred delete the broader formula, without

E/CONF.82/C.1/SR.3

Paragraph 50

The first two sentences should read

The CHAIRMAN observed that in the pre-conference consultations it had been agreed that definitions of the notions employed in the convention should be looked at in conjunction with the substantive articles dealing with them. On that basis, a definition of "illicit traffic" should be discussed when dealing with article 2, if the text proposed in document E/CONF.82/3 was accepted.

Paragraph 56

Line 5: for undesirable read not satisfactory

E/CONF.82/C.1/SR.4

Paragraph 40

Lines 2-3: for serious reservations read a reservation

Paragraph 75

Line 3: the text should read

if the safeguard clause in the bracketed second sentence were deleted. Malaysia supported the retention of the last bracketed sentence.

E/CONF.82/C.1/SR.5

Paragraph 2

Line 4: after political offences insert

, being considered in international law as an exception to extradition

Paragraph 3

The first sentence should read

Mr. WELLS (Australia) said that fiscal offences as such fell into a category justifying the refusal of international assistance under articles 3, 4 and 5 of the convention.

Lines 4-5: for of foreign civil judgements was not given read of foreign civil and criminal judgements was often not given

Line 7: after which were insert to

Line 8: after nor would delete mutual

E/CONF.82/C.1/SR.6

Paragraph 26

The paragraph should read

26. Ms. HUSSEIN (Malaysia) said that she had reservations concerning the proposal to delete the words "derived from or" pending the outcome of discussion in the informal Working Group on the inclusion of drug cultivation in article 2, paragraph 1.

Paragraph 28

The paragraph should read

28. Ms. HUSSEIN (Malaysia) agreed to the suggestion made by the Chairman to delete the words "derived from or" on the understanding that the question of the inclusion of those words in paragraph 1 (b) of article 3 as envisaged in document E/CONF.82/C.1/L.2 should be reconsidered once the result of the discussions in the informal Working Group was known.

Paragraph 58

Line 1: for commissions read a royal commission

Line 2: for were normally empowered read could be empowered

Paragraph 59

Line 2: after income tax delete inspectors

Paragraph 67

The third sentence should read

The provisions of subparagraph (c) might not, in her opinion, cover that point.

Paragraph 84

Line 2: for "comiso" read "decomiso"

E/CONF.82/C.1/SR.7

Paragraph 64

The second sentence should read

She considered that an identical solution should be adopted in the two texts.

E/CONF.82/C.1/SR.8

Paragraph 34

The paragraph should read

34. Mr. BROWNING (United States of America) said that the "competent authorities" referred to in subparagraph (a) (i) were the same "competent authorities" referred to in article 3, paragraph 4 (a) (ii), and would include the courts and other authorities empowered to address the matters referred to in article 3, paragraph 1.

E/CONF.82/C.1/SR.11

Paragraph 59

Line 2: for since "proceeds" derived read since all proceeds were property, but not all property was proceeds. Moreover, in this context, "proceeds" were derived

E/CONF.82/C.1/SR.12

Paragraph 53

At the end of the paragraph add

"Instrumentalities" actually referred to "instruments" of the crime.

E/CONF.82/C.1/SR.13

Paragraph 94

The second sentence should read

She proposed, however, that the brackets around the word "concerned" should be deleted.

E/CONF.82/C.1/SR.14

Paragraph 2

At the end of the paragraph add

In view of his objection to "shall" in this proposal and the idea expressed earlier that consistency with article 3, paragraph 4 (f), suggested that "shall" was the appropriate word, and since he had not liked the term "shall" in article 3 and did not like it now, he wished to record expressly his reservation to the term "shall" in article 3, paragraph 4 (f).

Paragraph 19

Lines 4-5: for Whatever term was used - "may", "shall" or something midway between the two - read Whatever term was used,

Paragraph 23

Line 2: after in paragraph 3 insert in view of the fact that this mandatory language was also used in article 3, paragraph 4 (f),

Paragraph 66

The paragraph should read

66. Mrs. KATHREIN (Austria) said that the provision "Except as otherwise provided in this article" should be deleted unless it was made clear to which paragraphs it applied.

Paragraph 72

Line 4: for article read paragraph

E/CONF.82/C.1/SR.17

Paragraph 18

The second sentence should read

There would be difficulties and the convention would be weakened if reference was made to the extradition of nationals or persons having committed an offence in the territory of the requested Party.

E/CONF.82/C.1/SR.18

Paragraph 27

At the end of the paragraph add

At any rate, a ship flying the flag of another State would bear the responsibility for all the implications of its acts.

Paragraph 33

For the last two sentences substitute

Countries might establish their jurisdiction over the offences listed in article 2, paragraph 1, but there could be occasions when they did not actually exercise it; for example, where concurrent jurisdictions existed among countries. He could agree to the use of the term "establish" here. He believed that the whole issue of exercise must be considered under article 4.

New paragraph following paragraph 60

After paragraph 60, insert a new paragraph reading

Mr. MADDEN (Jamaica) said that he wished to correct himself: when he had spoken of Jamaica tending to "exercise" jurisdiction sparingly, he had really meant "establish".

Paragraph 61

Line 2: after subparagraph (a) delete (i)

Paragraph 62

The paragraph should read

62. The wording in square brackets in subparagraph (b) (i) should be deleted. Some countries' domestic law would not allow the establishment of extraterritorial jurisdiction, but they should nevertheless be able to accept the subparagraph since the introductory wording to it already provided some degree of latitude. His delegation could accept the introductory wording proposed by the Nordic countries.

Paragraph 63

Line 2: after but he insert preferred the basic text. He

Line 3: for paragraph 2 read paragraph 3

Line 4: for the basic text read subparagraph (b) (i)

Line 5: for subparagraph (b)(i) read the subparagraph

E/CONF.82/C.1/SR.19

Paragraph 26

Line 7: delete or by a habitual resident of the territory

Paragraph 45

Delete the last sentence.

Paragraph 55

Lines 2-7: for the existing text substitute

the grounds for refusal set forth in article 2 bis, paragraph 2 (a), could be different from those set forth in article 4, paragraph 8, provided that the latter were included in the former. The inclusion of a reference to territoriality would open

Line 9: for what was a purely domestic offence read an offence that was a purely domestic matter for the requested Party

Line 11: after "if requested by the requesting Party" add

, since the United States proposal, as it stood, could be interpreted in such a way as to allow a Party making extradition conditional on the existence of a treaty to avoid the obligation to submit the case to the competent authority for the purpose of prosecution, even if it did not extradite the alleged offender, by saying that, since the request was from a Party with which it did not have any treaty, there was no legally recognizable request for extradition based upon extradition treaties

E/CONF.82/C.1/SR.20

Paragraph 38

Line 4: after That insert general

Line 6: after to the insert general

Paragraph 42

Lines 3-4: for restrict the exercise of criminal jurisdiction to a single State read constitute renunciation by a State of the exercise of its criminal jurisdiction

Paragraph 52

The paragraph should read

52. Mr. MADDEN (Jamaica) asked for clarification of the meaning of the proposed additional sentence.

E/CONF.82/C.1/SR.21

Paragraph 3

Line 1: for undertaking read understanding

Paragraph 57

Line 3: for 1(a)(i) read 2 (a) (i)

Paragraph 76

Lines 8-9: for or - if that proved unacceptable to the Committee - then read because

Lines 12-13: after maintained delete , preferably, but not necessarily,

E/CONF.82/C.1/SR.22

Paragraph 3

The first sentence should read

Mr. AL-SHARARDA (Jordan) questioned the possibility of concluding agreements for the extradition of offenders with countries that did not impose heavy penalties for particular offences, since such agreements would prompt offenders to intensify their efforts to flee from those countries.

Lines 6-7: for the existing text substitute

the following words: "Extradition shall be subject to domestic legislation".

Paragraph 37

Page 7, line 1: after an exhortation to establish insert universal

Paragraph 38

Line 6: for establishing criminal jurisdiction read an obligation to establish universal jurisdiction

E/CONF.82/C.1/SR.23

Paragraph 3

Line 5: after article 4, paragraph 8, delete was

E/CONF.82/C.1/SR.24

Paragraph 26

Line 2: after an offence or offences insert thereunder

Line 3: for the principal authors of it read the participants in the original drug offence

Paragraph 30

Line 4: after the expression "basic concepts of its legal system" add and asked what difference there was between that and the above-mentioned term "constitutional principles"

Paragraph 41

The third sentence should read

The term "basic concepts" had been chosen advisedly in order to reflect, in respect of the offences enumerated in subparagraphs (i) and (ii), the differences in regard to underlying concepts of private law pertaining to the position of persons having acquired property of criminal origin in good faith.

Fourth sentence: after Those differences included insert , moreover,

Paragraph 44

Line 5: after eliminated insert in relation to "use" or "possession"

Paragraph 48

At the end of the paragraph add

According to his delegation's understanding based upon the discussions in the Working Group and previous Expert Group and Review Group meetings, the safeguard clause of 1 (c) was intended to resolve those legal and practical problems, and was less stringent than the phrase "basic principles of its legal system".

Paragraph 74

Line 3: for whether the offences read whether all the offences

Paragraph 77

At the end of the paragraph add

He therefore wished to express his delegation's reservations in respect of the adoption of the definition of illicit traffic, as it based itself on article 2, the text of which did not take into account those concerns.

Paragraph 106

Line 1: for Mr. SCHUTTE read Mr. van GORKOM

E/CONF.82/C.1/SR.25

Paragraph 52

Line 5: for would create major problems for defence counsel read would, although not voiding any right to prosecute, according to domestic law, invite defence counsels to impede proceedings

Paragraph 56

Last sentence: after wording proposed by the Chairman insert as being the next best to that proposed by the Netherlands on Friday afternoon

Paragraph 76

The paragraph should read

76. Mr. AFFENTRANGER (Switzerland) said that paragraph 7 was an important provision of the draft convention and should be maintained. It pointed out where in practice there were, for the time being, problems and would help progress to be made in regard to that subject.

E/CONF.82/C.1/SR.26

Paragraph 12

Lines 1-2: for both civil law countries and common law countries were read common law countries were still

Paragraph 39

Lines 3-4: for create an obligation for the requested Party to arrest
read create a strict obligation for the requested Party always to arrest

E/CONF.82/C.1/SR.28

Paragraph 49

The paragraph should read

49. Mr. WILKITZKI (Federal Republic of Germany) said that if the measures provided for in paragraph 3 were to become optional examples, paragraph 3 bis would be redundant; if they were obligatory and exhaustive, paragraph 3 bis should remain.

Paragraph 55

Line 1: for Mr. SCHAAD read Mr. WILKITZKI

Paragraph 88

Line 1: for Mr. SCHAAD read Mr. WILKITZKI

Lines 3-4: for corresponded more closely to "fouilles" read also covered search of persons (in French: "fouilles")

Paragraph 105

Line 1: for Mr. SCHAAD read Mr. WILKITZSKI

Paragraph 106

Line 1: for Mr. YU Jingming read Mr. XU Hong

E/CONF.82/C.1/SR.30

Paragraph 9

Line 2: for the existing text substitute

replacing the word "regional" by "multilateral" in the amendment he had proposed.

Paragraph 23

The paragraph should read

23. Mr. OSHIKIRI (Japan) reiterated the position of his delegation to the effect that, due to the existence of various kinds of mutual assistance and, accordingly, of various competent authorities for the execution of a request for mutual assistance, designation of a single authority was not acceptable to his country. He also opposed the deletion of the final phrase in paragraph 6 and pointed out that a reference to ICPO/Interpol without any safeguard clause would present legal difficulties for his country.

E/CONF.82/C.1/SR.33

Paragraph 73

Line 3: for "determined" by "desiring" read "desiring" by "determined"

Paragraph 83

Line 3: for such a reference read the proposed addition